

Federal Communications Commission

§ 21.955

strategies'' are defined as set forth in 47 CFR 1.2105(c)(5).

[60 FR 36558, July 17, 1995]

§ 21.954 Submission of up front payments.

(a) The Commission will require applicants to submit an upfront payment prior to the MDS auction. The amount of the upfront payment for each BTA service area being auctioned and the procedures for submitting it will be set forth in a public notice. Upfront payments may be made by wire transfer or by cashier's check drawn in U.S. dollars from a financial institution whose deposits are insured by the Federal Deposit Insurance Corporation and must be made payable to the Federal Communications Commission. No interest will be paid on upfront payments.

(b) For MDS auctions, the Commission will require each applicant to submit an upfront payment equal to the largest combination of activity units (as defined in the Commission's activity rules established pursuant to § 21.951(a)(2)(vi)) associated with the BTAs on which the applicant anticipates being active in any single round or bidding. Applicants who are small businesses eligible for reduced upfront payments will be required to submit an upfront payment amount in accordance with § 21.960(c). If an upfront payment is not in compliance with the Commission's rules, or if insufficient funds are tendered to constitute a valid upfront payment, the applicant shall have a limited opportunity to correct its submission to bring it up to the minimum valid upfront payment prior to the auction. An applicant who fails to submit a sufficient upfront payment to qualify it to bid on any BTA service area being auctioned will be ineligible to bid, its application will be dismissed, and any upfront payment it has made will be returned.

(c) The upfront payment(s) of a bidder will be credited toward any down payment required for the BTA service areas on which the bidder is the winning bidder. Where the upfront payment amount exceeds the required down payment of a winning bidder, the Commission may refund the excess amount after determining that no bid withdrawal payments are owned by

that bidder. In the event a payment is assessed pursuant to § 21.959(a) for bid withdrawal or default, upfront payments or down payments on deposit with the Commission will be used to satisfy the bid withdrawal or default payment before being applied toward any additional payment obligations that the winning bidder may have.

[60 FR 36559, July 17, 1995]

§ 21.955 Submission of down payments

(a) After bidding has ended on all BTA service areas, the Commission will identify and notify the winning bidders and declare the bidding closed in the MDS auction. Within five (5) business days after being notified that it is a winning bidder on a particular BTA service area(s), a winning bidder must submit to the Commission's lockbox bank such additional funds as are necessary to bring its total deposits (upfront payment plus down payment) up to twenty (20) percent of its winning bid(s). This down payment may be made by wire transfer or by cashier's check in U.S. dollars from a financial institution whose deposits are insured by the Federal Deposit Insurance Corporation and must be made payable to the Federal Communications Commission.

(b) Winning bidders who are small businesses eligible for installment payments under § 21.960(b) are only required to bring their total deposits up to ten (10) percent of their winning bids. Such small businesses must pay the remainder of the twenty (20) percent down payment within five (5) business days following release of the public notice stating that their BTA authorizations are ready to be issued.

(c) Down payments will be held by the Commission until the winning bidder has been issued its BTA authorization and has paid the remaining balance of its winning bid, in which case it will not be returned, or until the winning bidder is found unqualified to be a station licensee or has defaulted, in which case it will be returned, less applicable default payments. No interest will be paid on any down payment.

[60 FR 36559, July 17, 1995]

§ 21.956 Filing of long-form applications or statements of intention.

(a)(1) Within 30 business days of being notified of its status as a winning bidder, each winning bidder for a BTA service area will be required to submit either:

(i) an initial long-form application for an MDS station license, along with any required exhibits; or

(ii) a statement of intention with regard to the BTA service area, along with any required exhibits, showing the encumbered nature of the BTA, identifying all previously authorized or proposed MDS and ITFS facilities, and describing in detail the winning bidder's plan for obtaining the previously authorized and/or proposed MDS stations within the BTA.

(2) A winning bidder that fails to submit either the initial long-form application or statement of intention as required under this section, and fails to establish good cause for any late-filed application or statement, shall be deemed to have defaulted and will be subject to the payments set forth in § 21.959(a).

(b) Each initial long-form application for an MDS station license within an auction winner's BTA service area, and each statement of intention with regard to an auction winner's BTA service area, must also include the following:

(1) FCC Form 430;

(2) an exhibit detailing the terms and conditions and parties involved in any bidding consortia, joint venture, partnership or other agreement or arrangement the winning bidder had entered into relating to the competitive bidding process prior to the time bidding was completed (*see* 47 CFR 1.207(d));

(3) an exhibit complying with 47 CFR §§ 1.2110(i) and 21.960(e), if the winning bidder submitting the long-form application or statement of intention claims status as a designated entity. (c) Subsequent long-form applications for additional MDS station licenses within the BTA service areas of winning bidders may be submitted at any time during the five year build-out period and need not contain the exhibits spec-

ified in paragraph (b)(2) through (3) of this section.

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§ 21.957 Petitions to deny against long-form applications; comments on statements of intention.

(a) Within thirty (30) days after the Commission gives public notice that a long-form application for an MDS station license submitted by a winning bidder within its BTA service area has been accepted for filing, petitions to deny that application may be filed. Any such petitions and oppositions thereto must comply with the requirements of §§ 47 CFR 1.2108 and 21.30.

(b) Parties wishing to comment on or oppose the issuance of a BTA authorization issued in connection with the filing of a statement of intention by a winning bidder must do so prior to the Commission's issuance of the BTA authorization.

[60 FR 36559, July 17, 1995]

§ 21.958 Full payment and issuance of BTA authorizations.

Each winning bidder, except for small businesses eligible for installment payments under § 21.960(b), must pay the balance of its winning bid for its BTA service area(s) in a lump sum within five (5) business days following the release of the public notice stating that the BTA authorization(s) is ready to be issued. A winning bidder who submitted a long-form application for an MDS station license within its BTA service area pursuant to § 21.956(a) will receive its BTA authorization concurrent with the grant of its MDS conditional station license within its BTA service area. A winning bidder who submitted a statement of intention with regard to its BTA service area pursuant to § 21.956(a) will receive its BTA authorization following the Commission's review of its statement of intention. The Commission will issue a BTA authorization to a winning bidder within ten (10) business days following notification of receipt of full payment of the amount of the winning bid.

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